

**ASSEMBLY BILL**

**No. 2759**

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**Introduced by Assembly Member Nestande**

February 19, 2010

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An act to amend Sections 33021, 33334.3, and 33413 of, and to add Section 33334.35 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as introduced, Nestande. Redevelopment: pooled housing funds: emergency shelters.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight, as defined, in those communities and requires those agencies to prepare, or cause to be prepared, and approve a redevelopment plan for each area.

The Community Redevelopment Law requires that not less than 20% of the tax-increment revenue allocated to a redevelopment agency be used to increase, improve, and preserve the supply of the community's low- and moderate-income housing within the territorial jurisdiction of the agency, and for this purpose, the funds are held in a separate Low and Moderate Income Housing Fund. Existing law requires that all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund pursuant to an agreement approved by an agency on or after January 1, 1988, remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income, very low income, and extremely low income households for the longest feasible time, but for not less than specified periods of time, except as specified.

This bill would redefine the term redevelopment to include improving, increasing, or preserving emergency shelters for homeless persons or households. The bill would authorize contiguous redevelopment agencies located within adjoining cities within a single Metropolitan Statistical Area to create and participate in a joint powers authority for the purpose of pooling low- and moderate-income housing funds for funding emergency shelters for homeless persons or households. The bill would authorize the agencies to transfer a portion of their housing funds to a joint powers authority for use by the authority pursuant to these provisions. The bill would require that the emergency shelters assisted with low- and moderate-income housing funds remain available at affordable housing cost to specified persons, families, and households for not less than 15 years.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Homelessness is a statewide problem that affects many cities
- 4 and counties. There are an estimated 360,000 homeless individuals
- 5 and families in California. In some counties, including the County
- 6 of Los Angeles, an estimated 254,000 men, women, and children
- 7 experience homelessness over the course of each year. Some of
- 8 the causes of homelessness include mental illness, substance abuse,
- 9 prison release, and a lack of affordable housing.
- 10 (b) Homelessness affects people of all races, gender, age, and
- 11 geographic location. However, the cost and availability of land,
- 12 geophysical and environmental limitations, community patterns,
- 13 and the lack of financing make the availability of affordable
- 14 housing for homeless more difficult in some communities. These
- 15 factors contribute to the growing need for a regional approach to
- 16 plan for the location of adequate emergency shelters. A regional
- 17 approach would allow the expansion of existing facilities, result
- 18 in more efficient overhead, create more efficient facilities, and
- 19 avoid fragmenting and duplicating administrative and operating
- 20 overhead caused by creating multiple smaller facilities in individual
- 21 communities.

1 (c) In order to ensure access to services in every housing market  
2 area for homeless individuals and families, the cooperation of local  
3 redevelopment agencies and the use of pooled funds is necessary  
4 to increase available resources and to provide opportunities that  
5 would otherwise be unavailable for emergency shelters.

6 SEC. 2. Section 33021 of the Health and Safety Code is  
7 amended to read:

8 33021. Redevelopment includes *any of the following*:

9 (a) The alteration, improvement, modernization, reconstruction,  
10 or rehabilitation, or any combination of these, of existing structures  
11 in a project area.

12 (b) Provision for open-space types of use, such as streets and  
13 other public grounds and space around buildings, and public or  
14 private buildings, structures and improvements, and improvements  
15 of public or private recreation areas and other public grounds.

16 (c) The replanning or redesign or original development of  
17 undeveloped areas as to which either of the following conditions  
18 exist.

19 (1) The areas are stagnant or improperly utilized because of  
20 defective or inadequate street layout, faulty lot layout in relation  
21 to size, shape, accessibility, or usefulness, or for other causes.

22 (2) The areas require replanning and land assembly for  
23 reclamation or development in the interest of the general welfare  
24 because of widely scattered ownership, tax delinquency, or other  
25 reasons.

26 (d) *Improving, increasing, or preserving emergency shelters*  
27 *for homeless persons or households. The shelters may be located*  
28 *within or outside of established redevelopment project areas.*  
29 *Notwithstanding any other provision of law, these activities may*  
30 *be financed with funds available pursuant to Section 33334.3.*

31 SEC. 3. Section 33334.3 of the Health and Safety Code is  
32 amended to read:

33 33334.3. (a) The funds that are required by Section 33334.2  
34 or 33334.6 to be used for the purposes of increasing, improving,  
35 and preserving the community's supply of low- and  
36 moderate-income housing shall be held in a separate Low and  
37 Moderate Income Housing Fund until used.

38 (b) Any interest earned by the Low and Moderate Income  
39 Housing Fund and any repayments or other income to the agency  
40 for loans, advances, or grants, of any kind from the Low and

1 Moderate Income Housing Fund, shall accrue to and be deposited  
2 in, the fund and may only be used in the manner prescribed for the  
3 Low and Moderate Income Housing Fund.

4 (c) The moneys in the Low and Moderate Income Housing Fund  
5 shall be used to increase, improve, and preserve the supply of low-  
6 and moderate-income housing within the territorial jurisdiction of  
7 the agency.

8 (d) It is the intent of the Legislature that the Low and Moderate  
9 Income Housing Fund be used to the maximum extent possible to  
10 defray the costs of production, improvement, and preservation of  
11 low- and moderate-income housing and that the amount of money  
12 spent for planning and general administrative activities associated  
13 with the development, improvement, and preservation of that  
14 housing not be disproportionate to the amount actually spent for  
15 the costs of production, improvement, or preservation of that  
16 housing. The agency shall determine annually that the planning  
17 and administrative expenses are necessary for the production,  
18 improvement, or preservation of low- and moderate-income  
19 housing.

20 (e) (1) Planning and general administrative costs which may  
21 be paid with moneys from the Low and Moderate Income Housing  
22 Fund are those expenses incurred by the agency which are directly  
23 related to the programs and activities authorized under subdivision  
24 (e) of Section 33334.2 and are limited to the following:

25 (A) Costs incurred for salaries, wages, and related costs of the  
26 agency's staff or for services provided through interagency  
27 agreements, and agreements with contractors, including usual  
28 indirect costs related thereto.

29 (B) Costs incurred by a nonprofit corporation which are not  
30 directly attributable to a specific project.

31 (2) Legal, architectural, and engineering costs and other salaries,  
32 wages, and costs directly related to the planning and execution of  
33 a specific project that are authorized under subdivision (e) of  
34 Section 33334.2 and that are incurred by a nonprofit housing  
35 sponsor are not planning and administrative costs for the purposes  
36 of this section, but are instead project costs.

37 (f) (1) The requirements of this subdivision apply to all new or  
38 substantially rehabilitated housing units developed or otherwise  
39 assisted with moneys from the Low and Moderate Income Housing  
40 Fund, pursuant to an agreement approved by an agency on or after

1 January 1, 1988. Except to the extent that a longer period of time  
2 may be required by other provisions of law, the agency shall require  
3 that housing units subject to this subdivision shall remain available  
4 at affordable housing cost to, and occupied by, persons and families  
5 of low or moderate income and very low income and extremely  
6 low income households for the longest feasible time, but for not  
7 less than the following periods of time:

8 (A) Fifty-five years for rental units. However, the agency may  
9 replace rental units with equally affordable and comparable rental  
10 units in another location within the community if (i) the  
11 replacement units are available for occupancy prior to the  
12 displacement of any persons and families of low or moderate  
13 income residing in the units to be replaced and (ii) the comparable  
14 replacement units are not developed with moneys from the Low  
15 and Moderate Income Housing Fund.

16 (B) Forty-five years for owner-occupied units. However, the  
17 agency may permit sales of owner-occupied units prior to the  
18 expiration of the 45-year period for a price in excess of that  
19 otherwise permitted under this subdivision pursuant to an adopted  
20 program which protects the agency's investment of moneys from  
21 the Low and Moderate Income Housing Fund, including, but not  
22 limited to, an equity sharing program which establishes a schedule  
23 of equity sharing that permits retention by the seller of a portion  
24 of those excess proceeds based on the length of occupancy. The  
25 remainder of the excess proceeds of the sale shall be allocated to  
26 the agency and deposited in the Low and Moderate Income  
27 Housing Fund. Only the units originally assisted by the agency  
28 shall be counted towards the agency's obligations under Section  
29 33413.

30 (C) Fifteen years for mutual self-help housing units that are  
31 occupied by and affordable to very low and low-income  
32 households. However, the agency may permit sales of mutual  
33 self-help housing units prior to expiration of the 15-year period  
34 for a price in excess of that otherwise permitted under this  
35 subdivision pursuant to an adopted program that (i) protects the  
36 agency's investment of moneys from the Low and Moderate  
37 Income Housing Fund, including, but not limited to, an equity  
38 sharing program that establishes a schedule of equity sharing that  
39 permits retention by the seller of a portion of those excess proceeds  
40 based on the length of occupancy; and (ii) ensures through a

1 recorded regulatory agreement, deed of trust, or similar recorded  
2 instrument that if a mutual self-help housing unit is sold at any  
3 time after expiration of the 15-year period and prior to 45 years  
4 after the date of recording of the covenants or restrictions required  
5 pursuant to paragraph (2), the agency recovers, at a minimum, its  
6 original principal from the Low and Moderate Income Housing  
7 Fund from the proceeds of the sale and deposits those funds into  
8 the Low and Moderate Income Housing Fund. The remainder of  
9 the excess proceeds of the sale not retained by the seller shall be  
10 allocated to the agency and deposited in the Low and Moderate  
11 Income Housing Fund. For the purposes of this subparagraph,  
12 “mutual self-help housing unit” means an owner-occupied housing  
13 unit for which persons and families of very low and low income  
14 contribute no fewer than 500 hours of their own labor in individual  
15 or group efforts to provide a decent, safe, and sanitary ownership  
16 housing unit for themselves, their families, and others authorized  
17 to occupy that unit. Nothing in this subparagraph precludes the  
18 agency and the developer of the mutual self-help housing units  
19 from agreeing to 45-year deed restrictions.

20 *(D) Fifteen years for emergency shelters for homeless persons*  
21 *or households that are occupied by and affordable to very low and*  
22 *extremely low-income persons and households. However, the*  
23 *agency may permit sales of mutual self-help housing units prior*  
24 *to expiration of the 15-year period for a price in excess of that*  
25 *otherwise permitted under this subdivision pursuant to an adopted*  
26 *program that (i) protects the agency’s investment of moneys from*  
27 *the Low and Moderate Income Housing Fund, including, but not*  
28 *limited to, an equity sharing program that establishes a schedule*  
29 *of equity sharing that permits retention by the seller of a portion*  
30 *of those excess proceeds based on the length of occupancy; and*  
31 *(ii) ensures through a recorded regulatory agreement, deed of*  
32 *trust, or similar recorded instrument that if an emergency shelter*  
33 *is sold at any time after expiration of the 15-year period and prior*  
34 *to 45 years after the date of recording of the covenants or*  
35 *restrictions required pursuant to paragraph (2), the agency*  
36 *recovers, at a minimum, its original principal from the Low and*  
37 *Moderate Income Housing Fund from the proceeds of the sale and*  
38 *deposits those funds into the fund. The remainder of the excess*  
39 *proceeds of the sale not retained by the seller shall be allocated*  
40 *to the agency and deposited in the Low and Moderate Income*

1 *Housing Fund. For the purposes of this subparagraph, “emergency*  
2 *shelter” means a facility with minimal supportive services for*  
3 *homeless persons that is limited to occupancy of six months or less*  
4 *by a homeless person or household as defined in Section 50801.*  
5 *Nothing in this subparagraph precludes the agency and the*  
6 *developer of the emergency shelter from agreeing to 45-year deed*  
7 *restrictions.*

8 (2) If land on which those dwelling units are located is deleted  
9 from the project area, the agency shall continue to require that  
10 those units remain affordable as specified in this subdivision.

11 (3) The agency shall require the recording in the office of the  
12 county recorder of the following documents:

13 (A) The covenants or restrictions implementing this subdivision  
14 for each parcel or unit of real property subject to this subdivision.  
15 The agency shall obtain and maintain a copy of the recorded  
16 covenants or restrictions for not less than the life of the covenant  
17 or restriction.

18 (B) For all new or substantially rehabilitated units developed  
19 or otherwise assisted with moneys from the Low and Moderate  
20 Income Housing Fund on or after January 1, 2008, a separate  
21 document called “Notice of Affordability Restrictions on Transfer  
22 of Property,” set forth in 14-point type or larger. This document  
23 shall contain all of the following information:

24 (i) A recitation of the affordability covenants or restrictions. If  
25 the document recorded under this subparagraph is recorded  
26 concurrently with the covenants or restrictions recorded under  
27 subparagraph (A), the recitation of the affordability covenants or  
28 restrictions shall also reference the concurrently recorded  
29 document. If the document recorded under this subparagraph is  
30 not recorded concurrently with the covenants or restrictions  
31 recorded under subparagraph (A), the recitation of the affordability  
32 covenants or restrictions shall also reference the recorder’s  
33 identification number of the document recorded under subparagraph  
34 (A).

35 (ii) The date the covenants or restrictions expire.

36 (iii) The street address of the property, including, if applicable,  
37 the unit number.

38 (iv) The assessor’s parcel number for the property.

39 (v) The legal description of the property.

1 (4) The agency shall require the recording of the document  
2 required under subparagraph (B) of paragraph (3) not more than  
3 30 days after the date of recordation of the covenants or restrictions  
4 required under subparagraph (A) of paragraph (3).

5 (5) The county recorder shall index the documents required to  
6 be recorded under paragraph (3) by the agency and current owner.

7 (6) Notwithstanding Section 27383 of the Government Code,  
8 a county recorder may charge all authorized recording fees to any  
9 party, including a public agency, for recording the document  
10 specified in subparagraph (B) of paragraph (3).

11 (7) Notwithstanding any other provision of law, the covenants  
12 or restrictions implementing this subdivision shall run with the  
13 land and shall be enforceable against any owner who violates a  
14 covenant or restriction and each successor in interest who continues  
15 the violation, by any of the following:

16 (A) The agency.

17 (B) The community, as defined in Section 33002.

18 (C) A resident of a unit subject to this subdivision.

19 (D) A residents' association with members who reside in units  
20 subject to this subdivision.

21 (E) A former resident of a unit subject to this subdivision who  
22 last resided in that unit.

23 (F) An applicant seeking to enforce the covenants or restrictions  
24 for a particular unit that is subject to this subdivision, if the  
25 applicant conforms to all of the following:

26 (i) Is of low or moderate income, as defined in Section 50093.

27 (ii) Is able and willing to occupy that particular unit.

28 (iii) Was denied occupancy of that particular unit due to an  
29 alleged breach of a covenant or restriction implementing this  
30 subdivision.

31 (G) A person on an affordable housing waiting list who is of  
32 low or moderate income, as defined in Section 50093, and who is  
33 able and willing to occupy a unit subject to this subdivision.

34 (8) A dwelling unit shall not be counted as satisfying the  
35 affordable housing requirements of this part, unless covenants for  
36 that dwelling unit are recorded in compliance with subparagraph  
37 (A) of paragraph (3).

38 (9) Failure to comply with the requirements of subparagraph  
39 (B) of paragraph (3) shall not invalidate any covenants or



1 restrictions recorded pursuant to subparagraph (A) of paragraph  
2 (3).

3 (g) “Housing,” as used in this section, includes residential hotels,  
4 as defined in subdivision (k) of Section 37912. The definitions of  
5 “lower income households,” “very low income households,” and  
6 “extremely low income households” in Sections 50079.5, 50105,  
7 and 50106 shall apply to this section. “Longest feasible time,” as  
8 used in this section, includes, but is not limited to, unlimited  
9 duration.

10 (h) “Increasing, improving, and preserving the community’s  
11 supply of low- and moderate-income housing,” as used in this  
12 section and in Section 33334.2, includes *the increase, improvement,*  
13 *and preservation of emergency shelters for homeless persons or*  
14 *households in accordance with Section 33334.35 and the*  
15 *preservation of rental housing units assisted by federal, state, or*  
16 *local government on the condition that units remain affordable to,*  
17 *and occupied by, low- and moderate-income households, including*  
18 *extremely low and very low income households, for the longest*  
19 *feasible time, but not less than 55 years, beyond the date the*  
20 *subsidies and use restrictions could be terminated and the assisted*  
21 *housing units converted to market rate rentals. In preserving these*  
22 *units the agency shall require that the units remain affordable to,*  
23 *and occupied by, persons and families of low- and*  
24 *moderate-income and extremely low and very low income*  
25 *households for the longest feasible time but not less than 55 years.*  
26 However, the agency may replace rental units with equally  
27 affordable and comparable rental units in another location within  
28 the community if (1) the replacement units in another location are  
29 available for occupancy prior to the displacement of any persons  
30 and families of low or moderate income residing in the units to be  
31 replaced and (2) the comparable replacement units are not  
32 developed with moneys from the Low and Moderate Income  
33 Housing Fund.

34 (i) Agencies that have more than one project area may satisfy  
35 the requirements of Sections 33334.2 and 33334.6 and of this  
36 section by allocating, in any fiscal year, less than 20 percent in  
37 one project area, if the difference between the amount allocated  
38 and the 20 percent required is instead allocated, in that same fiscal  
39 year, to the Low and Moderate Income Housing Fund from tax  
40 increment revenues from other project areas. Prior to allocating

1 funds pursuant to this subdivision, the agency shall make the  
2 finding required by subdivision (g) of Section 33334.2.

3 (j) Funds from the Low and Moderate Income Housing Fund  
4 shall not be used to the extent that other reasonable means of  
5 private or commercial financing of the new or substantially  
6 rehabilitated units at the same level of affordability and quantity  
7 are reasonably available to the agency or to the owner of the units.  
8 Prior to the expenditure of funds from the Low and Moderate  
9 Income Housing Fund for new or substantially rehabilitated  
10 housing units, where those funds will exceed 50 percent of the  
11 cost of producing the units, the agency shall find, based on  
12 substantial evidence, that the use of the funds is necessary because  
13 the agency or owner of the units has made a good faith attempt  
14 but been unable to obtain commercial or private means of financing  
15 the units at the same level of affordability and quantity.

16 SEC. 4. Section 33334.35 is added to the Health and Safety  
17 Code, to read:

18 33334.35. (a) The Legislature finds and declares all of the  
19 following:

20 (1) The transfer of funds to a joint powers authority and the use  
21 of pooled funds within the housing market area of the participating  
22 agencies for the purpose of providing emergency shelters for  
23 homeless persons or households is of benefit to the project area  
24 producing the tax increment.

25 (2) The cost and availability of land, geophysical and  
26 environmental limitations, community patterns, and the lack of  
27 financing make the availability of affordable housing for homeless  
28 persons or households more difficult in some communities.

29 (3) The cooperation of local agencies and the use of pooled  
30 funds will result in more resources and more opportunities than  
31 would otherwise be available for affordable housing for homeless  
32 persons or households.

33 (b) As used in this section, the following terms shall have the  
34 following meanings:

35 (1) "Emergency shelter" shall have the same meaning as  
36 described in subdivision (e) of Section 50801.

37 (2) "Housing funds" mean funds in or from the Low and  
38 Moderate Income Housing Fund established by an agency pursuant  
39 to Section 33334.3.

1 (3) “Joint powers authority” means a joint powers authority  
2 created pursuant to Chapter 5 (commencing with Section 6500)  
3 of Division 7 of Title 1 of the Government Code for the purposes  
4 of receiving and using housing funds pursuant to this section.

5 (4) “Receiving entity” means any person, partnership, joint  
6 venture, corporation, governmental body, or other organization  
7 receiving housing funds from a joint powers authority for the  
8 purpose of providing housing pursuant to this section.

9 (c) Notwithstanding any other provision of law, contiguous  
10 agencies located within adjoining cities within a single  
11 Metropolitan Statistical Area (MSA) may create and participate  
12 in a joint powers authority for the purpose of pooling their low-  
13 and moderate-income housing funds for funding emergency  
14 shelters for homeless persons or households. Agencies may transfer  
15 a portion of their housing funds to a joint powers authority for use  
16 by the joint powers authority pursuant to this section. The joint  
17 powers authority may determine the kinds of housing projects or  
18 activities to be assisted, consistent with this section. The joint  
19 powers authority may issue loans or grants, or advance transferred  
20 housing funds from participating agencies to a receiving entity for  
21 any eligible emergency shelter project within the territorial  
22 jurisdiction of any of the participating agencies, subject to the  
23 requirements of this section. In addition, the agreement may  
24 authorize the joint powers authority to issue bonds and to use the  
25 pooled funds to leverage other funds to assist eligible  
26 developments, including loans from private institutions and  
27 assistance provided by other governmental agencies.

28 (d) All of the following conditions shall be met and described  
29 in a mutually binding agreement between the joint powers authority  
30 and each participating agency:

31 (1) Each participating agency shall hold, at least 45 days prior  
32 to the transfer of funds to the joint powers authority, a public  
33 hearing, after providing notice pursuant to Section 6062 of the  
34 Government Code to solicit public comments on the draft  
35 agreement.

36 (2) No housing funds shall be transferred from a project area  
37 that has an indebtedness to its low- and moderate-income housing  
38 fund pursuant to Section 33334.6.

39 (3) The agreement shall require compliance by the joint powers  
40 authority with the provisions of this section.

1 (4) The joint powers authority shall ensure that the funds it  
2 receives are used in accordance with the requirements of this  
3 section.

4 (5) Funds transferred by an agency to a joint powers authority  
5 pursuant to this section shall be expended or encumbered by the  
6 joint powers authority for the purposes of this section within two  
7 years of the transfer. Transferred funds not expended or  
8 encumbered by the joint powers authority within two years after  
9 the transfer shall be returned to the original agency and shall be  
10 deemed excess surplus funds as provided in, and subject to, the  
11 requirements of Sections 33334.10 and 33334.12. Excess surplus  
12 funds held by an agency may not be transferred to a joint powers  
13 authority.

14 (e) Both of the following requirements shall be met and  
15 described in a mutually binding contract between the joint powers  
16 authority and a receiving entity:

17 (1) Pooled housing funds may only be used to pay for the direct  
18 costs of constructing, substantially rehabilitating, or preserving  
19 the affordability of emergency shelters for homeless persons or  
20 households that are affordable to very low or extremely low income  
21 households. Emergency shelters assisted with pooled funds shall  
22 remain available at affordable housing costs in accordance with  
23 subdivision (f) of Section 33334.3.

24 (2) Except as provided in this section, pooled housing funds  
25 may not be used in any way that is inconsistent with the  
26 requirements of Section 33334.3. Pooled housing funds may not  
27 be used to pay for planning and administrative costs, offsite  
28 improvements associated with an emergency shelter project, or  
29 fees or exactions levied solely for development projects  
30 constructed, substantially rehabilitated, or preserved with pooled  
31 funds. The receiving entity shall be subject to the same replacement  
32 requirements provided in Section 33413 and any relocation  
33 requirements applicable pursuant to Section 7260 of the  
34 Government Code.

35 (f) For the purposes of the housing credit authorized by  
36 subparagraph (E) of paragraph (2) of subdivision (b) of Section  
37 33413, each participating agency shall be allocated a share of the  
38 unit credits in the same proportion as the percentage each agency  
39 contributed to the pooled funds.

1 SEC. 5. Section 33413 of the Health and Safety Code is  
2 amended to read:

3 33413. (a) Whenever dwelling units housing persons and  
4 families of low or moderate income are destroyed or removed from  
5 the low- and moderate-income housing market as part of a  
6 redevelopment project that is subject to a written agreement with  
7 the agency or where financial assistance has been provided by the  
8 agency, the agency shall, within four years of the destruction or  
9 removal, rehabilitate, develop, or construct, or cause to be  
10 rehabilitated, developed, or constructed, for rental or sale to persons  
11 and families of low or moderate income, an equal number of  
12 replacement dwelling units that have an equal or greater number  
13 of bedrooms as those destroyed or removed units at affordable  
14 housing costs within the territorial jurisdiction of the agency. When  
15 dwelling units are destroyed or removed after September 1, 1989,  
16 75 percent of the replacement dwelling units shall replace dwelling  
17 units available at affordable housing cost in the same or a lower  
18 income level of very low income households, lower income  
19 households, and persons and families of low and moderate income,  
20 as the persons displaced from those destroyed or removed units.  
21 When dwelling units are destroyed or removed on or after January  
22 1, 2002, 100 percent of the replacement dwelling units shall be  
23 available at affordable housing cost to persons in the same or a  
24 lower income category (low, very low, or moderate), as the persons  
25 displaced from those destroyed or removed units.

26 (b) (1) Prior to the time limit on the effectiveness of the  
27 redevelopment plan established pursuant to Sections 33333.2,  
28 33333.6, and 33333.10 at least 30 percent of all new and  
29 substantially rehabilitated dwelling units developed by an agency  
30 shall be available at affordable housing cost to, and occupied by,  
31 persons and families of low or moderate income. Not less than 50  
32 percent of the dwelling units required to be available at affordable  
33 housing cost to, and occupied by, persons and families of low or  
34 moderate income shall be available at affordable housing cost to,  
35 and occupied by, very low income households.

36 (2) (A) (i) Prior to the time limit on the effectiveness of the  
37 redevelopment plan established pursuant to Sections 33333.2,  
38 33333.6, and 33333.10 at least 15 percent of all new and  
39 substantially rehabilitated dwelling units developed within a project  
40 area under the jurisdiction of an agency by public or private entities

1 or persons other than the agency shall be available at affordable  
2 housing cost to, and occupied by, persons and families of low or  
3 moderate income. Not less than 40 percent of the dwelling units  
4 required to be available at affordable housing cost to, and occupied  
5 by, persons and families of low or moderate income shall be  
6 available at affordable housing cost to, and occupied by, very low  
7 income households.

8 (ii) To satisfy this paragraph, in whole or in part, the agency  
9 may cause, by regulation or agreement, to be available, at  
10 affordable housing cost, to, and occupied by, persons and families  
11 of low or moderate income or to very low income households, as  
12 applicable, two units outside a project area for each unit that  
13 otherwise would have been required to be available inside a project  
14 area.

15 (iii) On or after January 1, 2002, as used in this paragraph and  
16 in paragraph (1), “substantially rehabilitated dwelling units” means  
17 all units substantially rehabilitated, with agency assistance. Prior  
18 to January 1, 2002, “substantially rehabilitated dwelling units”  
19 shall mean substantially rehabilitated multifamily rented dwelling  
20 units with three or more units regardless of whether there is agency  
21 assistance, or substantially rehabilitated, with agency assistance,  
22 single-family dwelling units with one or two units.

23 (iv) As used in this paragraph and in paragraph (1), “substantial  
24 rehabilitation” means rehabilitation, the value of which constitutes  
25 25 percent of the after rehabilitation value of the dwelling, inclusive  
26 of the land value.

27 (v) To satisfy this paragraph, the agency may aggregate new or  
28 substantially rehabilitated dwelling units in one or more project  
29 areas, if the agency finds, based on substantial evidence, after a  
30 public hearing, that the aggregation will not cause or exacerbate  
31 racial, ethnic, or economic segregation.

32 (B) To satisfy the requirements of paragraph (1) and  
33 subparagraph (A), the agency may purchase, or otherwise acquire  
34 or cause by regulation or agreement the purchase or other  
35 acquisition of, long-term affordability covenants on multifamily  
36 units that restrict the cost of renting or purchasing those units that  
37 either: (i) are not presently available at affordable housing cost to  
38 persons and families of low or very low income households, as  
39 applicable; or (ii) are units that are presently available at affordable  
40 housing cost to this same group of persons or families, but are

1 units that the agency finds, based upon substantial evidence, after  
2 a public hearing, cannot reasonably be expected to remain  
3 affordable to this same group of persons or families.

4 (C) To satisfy the requirements of paragraph (1) and  
5 subparagraph (A), the long-term affordability covenants purchased  
6 or otherwise acquired pursuant to subparagraph (B) shall be  
7 required to be maintained on dwelling units at affordable housing  
8 cost to, and occupied by, persons and families of low or very low  
9 income, for the longest feasible time but not less than 55 years for  
10 rental units and 45 years for owner-occupied units. Not more than  
11 50 percent of the units made available pursuant to paragraph (1)  
12 and subparagraph (A) may be assisted through the purchase or  
13 acquisition of long-term affordability covenants pursuant to  
14 subparagraph (B). Not less than 50 percent of the units made  
15 available through the purchase or acquisition of long-term  
16 affordability covenants pursuant to subparagraph (B) shall be  
17 available at affordable housing cost to, and occupied by, very low  
18 income households.

19 (D) To satisfy the requirements of paragraph (1) and  
20 subparagraph (A), each mutual self-help housing unit, as defined  
21 in subparagraph (C) of paragraph (1) of subdivision (f) of Section  
22 33334.3, that is subject to a 15-year deed restriction shall count as  
23 one-third of a unit.

24 *(E) To satisfy the requirements of paragraph (1) and*  
25 *subparagraph (A), each bed in an emergency shelter, as defined*  
26 *in subparagraph (D) of paragraph (1) of subdivision (f) of Section*  
27 *33334.3, that is subject to a 15-year deed restriction shall count*  
28 *as one-half of a unit.*

29 (3) The requirements of this subdivision shall apply  
30 independently of the requirements of subdivision (a). The  
31 requirements of this subdivision shall apply, in the aggregate, to  
32 housing made available pursuant to paragraphs (1) and (2),  
33 respectively, and not to each individual case of rehabilitation,  
34 development, or construction of dwelling units, unless an agency  
35 determines otherwise.

36 (4) Each redevelopment agency, as part of the implementation  
37 plan required by Section 33490, shall adopt a plan to comply with  
38 the requirements of this subdivision for each project area. The plan  
39 shall be consistent with, and may be included within, the  
40 community's housing element. The plan shall be reviewed and, if

1 necessary, amended at least every five years in conjunction with  
2 either the housing element cycle or the plan implementation cycle.  
3 The plan shall ensure that the requirements of this subdivision are  
4 met every 10 years. If the requirements of this subdivision are not  
5 met by the end of each 10-year period, the agency shall meet these  
6 goals on an annual basis until the requirements for the 10-year  
7 period are met. If the agency has exceeded the requirements within  
8 the 10-year period, the agency may count the units that exceed the  
9 requirement in order to meet the requirements during the next  
10 10-year period. The plan shall contain the contents required by  
11 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

12 (c) (1) The agency shall require that the aggregate number of  
13 replacement dwelling units and other dwelling units rehabilitated,  
14 developed, constructed, or price restricted pursuant to subdivision  
15 (a) or (b) remain available at affordable housing cost to, and  
16 occupied by, persons and families of low-income,  
17 moderate-income, and very low income households, respectively,  
18 for the longest feasible time, but for not less than 55 years for  
19 rental units, 45 years for home ownership units, and 15 years for  
20 mutual self-help housing units, as defined in subparagraph (C) of  
21 paragraph (1) of subdivision (f) of Section 33334.3, except as set  
22 forth in paragraph (2). Nothing in this paragraph precludes the  
23 agency and the developer of the mutual self-help housing units  
24 from agreeing to 45-year deed restrictions.

25 (2) Notwithstanding paragraph (1), the agency may permit sales  
26 of owner-occupied units prior to the expiration of the 45-year  
27 period, and mutual self-help housing units prior to the expiration  
28 of the 15-year period, established by the agency for a price in  
29 excess of that otherwise permitted under this subdivision pursuant  
30 to an adopted program that protects the agency's investment of  
31 moneys from the Low and Moderate Income Housing Fund,  
32 including, but not limited to, an equity sharing program that  
33 establishes a schedule of equity sharing that permits retention by  
34 the seller of a portion of those excess proceeds, based on the length  
35 of occupancy. The remainder of the excess proceeds of the sale  
36 shall be allocated to the agency, and deposited into the Low and  
37 Moderate Income Housing Fund. The agency shall, within three  
38 years from the date of sale pursuant to this paragraph of each home  
39 ownership or mutual self-help housing unit subject to a 45-year  
40 deed restriction, and every third mutual self-help housing unit



1 subject to a 15-year deed restriction, expend funds to make  
2 affordable an equal number of units at the same or lowest income  
3 level as the unit or units sold pursuant to this paragraph, for a  
4 period not less than the duration of the original deed restrictions.  
5 Only the units originally assisted by the agency shall be counted  
6 towards the agency's obligations under Section 33413.

7 (3) The requirements of this section shall be made enforceable  
8 in the same manner as provided in paragraph (7) of subdivision  
9 (f) of Section 33334.3.

10 (4) If land on which the dwelling units required by this section  
11 are located is deleted from the project area, the agency shall  
12 continue to require that those units remain affordable as specified  
13 in this subdivision.

14 (5) For each unit counted towards the requirements of  
15 subdivisions (a) and (b), the agency shall require the recording in  
16 the office of the county recorder of covenants or restrictions that  
17 ensure compliance with this subdivision. With respect to covenants  
18 or restrictions that are recorded on or after January 1, 2008, the  
19 agency shall comply with the requirements of paragraphs (3) and  
20 (4) of subdivision (f) of Section 33334.3.

21 (d) (1) This section applies only to redevelopment projects for  
22 which a final redevelopment plan is adopted pursuant to Article 5  
23 (commencing with Section 33360) on or after January 1, 1976,  
24 and to areas that are added to a project area by amendment to a  
25 final redevelopment plan adopted on or after January 1, 1976. In  
26 addition, subdivision (a) shall apply to any other redevelopment  
27 project with respect to dwelling units destroyed or removed from  
28 the low- and moderate-income housing market on or after January  
29 1, 1996, irrespective of the date of adoption of a final  
30 redevelopment plan or an amendment to a final redevelopment  
31 plan adding areas to a project area. Additionally, any agency may,  
32 by resolution, elect to make all or part of the requirements of this  
33 section applicable to any redevelopment project of the agency for  
34 which the final redevelopment plan was adopted prior to January  
35 1, 1976. In addition, subdivision (b) shall apply to redevelopment  
36 plans adopted prior to January 1, 1976, for which an amendment  
37 is adopted pursuant to Section 33333.10, except that subdivision  
38 (b) shall apply to those redevelopment plans prospectively only  
39 so that the requirements of subdivision (b) shall apply only to new  
40 and substantially rehabilitated dwelling units for which the building

1 permits are issued on or after the date that the ordinance adopting  
2 the amendment pursuant to Section 33333.10 becomes effective.

3 (2) An agency may, by resolution, elect to require that whenever  
4 dwelling units housing persons or families of low or moderate  
5 income are destroyed or removed from the low- and  
6 moderate-income housing market as part of a redevelopment  
7 project, the agency shall replace each dwelling unit with up to  
8 three replacement dwelling units pursuant to subdivision (a).

9 (e) Except as otherwise authorized by law, this section does not  
10 authorize an agency to operate a rental housing development  
11 beyond the period reasonably necessary to sell or lease the housing  
12 development.

13 (f) Notwithstanding subdivision (a), the agency may replace  
14 destroyed or removed dwelling units with a fewer number of  
15 replacement dwelling units if the replacement dwelling units meet  
16 both of the following criteria:

17 (1) The total number of bedrooms in the replacement dwelling  
18 units equals or exceeds the number of bedrooms in the destroyed  
19 or removed units. Destroyed or removed units having one or no  
20 bedroom are deemed for this purpose to have one bedroom.

21 (2) The replacement units are affordable to and occupied by the  
22 same income level of households as the destroyed or removed  
23 units.

24 (g) “Longest feasible time,” as used in this section, includes,  
25 but is not limited to, unlimited duration.